

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: AVANDIA MARKETING, SALES
PRACTICES AND PRODUCTS
LIABILITY LITIGATION**

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**MDL No. 1871
07-md-1871**

**This Document Applies to:
ALL ACTIONS**

**AFFIDAVIT OF THOMAS V. GIRARDI IN RESPONSE TO ORDER TO SHOW CAUSE
RE: PTO NO. 70 AND ORDER SETTING HEARING ON GSK'S TEMPORARY
RESTRAINING ORDER**

I, THOMAS V. GIRARDI, declare:

1) I make this Affidavit in response to the Order to Show Cause regarding Pre-Trial Order No. 70 (Doc. No. 3916) and the Order setting a hearing on GSK's Motion for a Temporary Restraining Order (Doc. No. 3917).

2) Our law firm filed approximately 4,000 Avandia cases in California state court. The cases are currently pending before the Honorable Elihu Berle, Judge of the Los Angeles Superior Court.

3) Our law firm was not involved in the MDL. All of the cases proceeded under California law for the past four years. All discovery proceeded under California law as was the settlement agreement.

4) I understand that the Plaintiff's Executive Committee has filed a motion concerning the Common Benefits Fee. I have not yet seen the motion but understand that Your Honor has now issued an Order requiring a response by 4:00 pm EST and a personal

appearance on Wednesday, March 26th. In addition, I understand that GlaxoSmithKline has now filed for an injunction to preclude me from filing a breach of contract action against GlaxoSmithKline. I will attempt to briefly address both issues.

5) As lead counsel in the California Avandia cases, our law firm made over one hundred court appearances, took numerous depositions and prepared the lead cases for trial. Our law firm selected many of our own experts that were unrelated to the MDL. We invested more than \$14 million in costs to properly prepare the cases for trial. No member of the Plaintiff's MDL committee was ever involved in any court appearance or discovery in the California JCCP actions.

6) I personally negotiated a global resolution of our inventory of cases in the days before our first case was set to begin trial. This was almost two years ago. The California settlement was totally unrelated to the MDL proceedings. I personally made many trips to the East Coast to negotiate the settlement. I am informed that the settlement that we entered into for our clients is far different from that of the MDL. I am not interested in revealing the settlement terms to anyone other than the Honorable Elihu Berle who oversees this case or Justices Edward Panelli and Jack Trotter who oversee the distribution of the settlement funds, and have already been provided with the settlement terms by GlaxoSmithKline.

7) Despite our agreement to resolve these cases, two years ago, GlaxoSmithKline has done everything possible to frustrate this settlement over the last two years. Despite approval by stipulated special masters, Justice John Trotter and Justice Edward Panelli, GlaxoSmithKline has wrongfully disqualified dozens of properly qualified claimants. In addition, GlaxoSmithKline has refused to pay over \$30 million in settlement funds for cases that they admit are qualified. They have withheld this money as a strong arm tactic to

attempt to gain an advantage in negotiations of other Avandia claims. I have never seen conduct so deceitful in my 45 years of practice.

8) It appears to us that counsel's motion should be directed at the Court who handled the cases in California. I will be happy to appear before the Court. It would be very difficult for me to appear on Wednesday, March 26th. I would request that the Court set the matter for Monday, March 31, 2014.

9) In the interim, we will not disclose the terms of the settlement agreement to anyone other than the Justices, who already have been provided with the terms of the settlement agreement.

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and accurate.

Executed this 24th day of March, 2014.

DATED: March 24, 2014

GIRARDI | KEESE

By: /s/ Thomas V. Girardi

THOMAS V. GIRARDI

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 24, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will provide notice of electronic filing to all counsel of record.

DATED: March 24, 2014

GIRARDI | KEESE

By: /s/ Keith D. Griffin

THOMAS V. GIRARDI

KEITH D. GRIFFIN

Attorneys for